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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE ISMAEL SERRANO,

Defendant.

No. CR 07-00212 WHA-001

PETITIONER'S RESPONSE TO MOTION
TO DISMISS

Court: Hon. William H. Alsup

RESPONSE TO MOTION TO DISMISS

Petitioner Jose Ismael Serrano filed a Motion to Vacate under 28 U.S.C. § 2255 on June 17, 2016 (Dkt. 171.) On March 13, 2017, the government filed a motion to dismiss Mr. Serrano's petition. (Dkt. 177.) On March 15, 2017, Mr. Serrano filed a notice of voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i). (Dkt. 178.) Because the government has not yet filed an answer to the pending motion, Mr. Serrano may voluntarily dismiss his Motion to Vacate as a matter of right under Federal Rule of Civil Procedure 41(a)(1)(A)(i). *See* Fed R. Civ. P. 41(a)(1)(A)(i), 41(a)(1)(B); Rules Governing Section 2255 Cases, Rule 12.

1 Because Mr. Serrano has voluntarily dismissed his petition and no longer seeks relief
2 under 28 U.S.C. § 2255, there is no legal issue to resolve regarding the government's motion to
3 dismiss. If the Court finds it necessary to resolve the government's motion, Mr. Serrano
4 respectfully requests that the Court deny the motion as moot. For the Court's convenience, Mr.
5 Serrano includes a proposed order to that effect.

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7 Date: March 20, 2017

Respectfully submitted,

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9 STEVEN G. KALAR
Federal Public Defender

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11 /s/
GRACE R. DiLAURA
Assistant Federal Public Defender
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IN THE UNITED STATES DISTRICT COURT
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UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE ISMAEL SERRANO,

Defendant.

No. CR 07-00212 WHA

[PROPOSED] ORDER DENYING MOTION
TO DISMISS AS MOOT

In light of Petitioner's Voluntary Dismissal of his Motion to Vacate, Set Aside, or Correct Sentence Under 28 U.S.C. § 2255 (Dkt. 178), the government's Motion to Dismiss (Dkt. 177) is DENIED AS MOOT. All remaining deadlines and/or hearing dates are hereby VACATED.

IT IS SO ORDERED.

DATED

William Alsup
United States District Judge